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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 OMAR J. TALLEY,

Case No. 3:13-cv-00573-MMD-VPC

9 Petitioner,

ORDER

10 v.

11 BRIAN WILLIAMS, et al.,

12 Respondents.

13 Petitioner has submitted an application to proceed *in forma pauperis* (dkt. no. 1)
14 and a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court finds
15 that petitioner is unable to pay the filing fee. The Court has reviewed the petition
16 pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States
17 District Courts. The Court will serve the petition upon respondents for a response.

18 Petitioner has submitted a motion for appointment of counsel. Whenever the
19 Court determines that the interests of justice so require, counsel may be appointed to
20 any financially eligible person who is seeking habeas corpus relief. 18 U.S.C.
21 § 3006A(a)(2)(B). "[T]he district court must evaluate the likelihood of success on the
22 merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the
23 complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952 (9th Cir.
24 1983). There is no constitutional right to counsel in federal habeas proceedings.
25 *McCleskey v. Zant*, 499 U.S. 467, 495 (1991). The factors to consider are not separate
26 from the underlying claims, but are intrinsically enmeshed with them. *Weygandt*, 718
27 F.2d at 954. None of the grounds that petitioner presents are complex. Furthermore, the
28 grounds are copies of the grounds that petitioner presented to the state courts.

1 Counsel will not be necessary for this court will be able to determine whether the
2 Nevada Supreme Court's disposition of those grounds were contrary to, or an
3 unreasonable application of, clearly established federal law. See 28 U.S.C. §
4 2254(d)(1).

5 It is therefore ordered that the application to proceed *in forma pauperis* (dkt. no.
6 1) is granted. Petitioner need not pay the filing fee of five dollars (\$5.00).

7 It is further ordered that the Clerk of the Court shall file the petition for a writ of
8 habeas corpus pursuant to 28 U.S.C. § 2254 and the motion for appointment of
9 counsel.

10 It is further ordered that the motion for appointment of counsel is denied.

11 It is further ordered that the Clerk shall add Catherine Cortez Masto, Attorney
12 General for the State of Nevada, as counsel for respondents.

13 It is further ordered that the Clerk shall electronically serve upon respondents a
14 copy of the petition and this order. In addition, the Clerk shall return to petitioner a copy
15 of the petition.

16 It is further ordered that respondents shall have forty-five (45) days from the date
17 on which the petition was served to answer or otherwise respond to the petition. If
18 respondents file and serve an answer, then they shall comply with Rule 5 of the Rules
19 Governing Section 2254 Cases in the United States District Courts, and then petitioner
20 shall have forty-five (45) days from the date on which the answer is served to file a
21 reply.

22 It is further ordered that any exhibits filed by the parties shall be filed with a
23 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF
24 attachments that are filed further shall be identified by the number or numbers (or letter
25 or letters) of the exhibits in the attachment. The hard courtesy copy of any additional
26 state court record exhibits shall be forwarded — for this case — to the staff attorneys in
27 Las Vegas.

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1 It is further ordered that, henceforth, petitioner shall serve upon respondents or, if
2 appearance has been entered by counsel, upon the attorney(s), a copy of every
3 pleading, motion or other document submitted for consideration by the Court. Petitioner
4 shall include with the original paper submitted for filing a certificate stating the date that
5 a true and correct copy of the document was mailed to the respondents or counsel for
6 the respondents. The Court may disregard any paper received by a district judge or
7 magistrate judge that has not been filed with the Clerk, and any paper received by a
8 district judge, magistrate judge, or the Clerk that fails to include a certificate of service.

9 DATED THIS 6th day of June 2014.

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12 MIRANDA M. DU
13 UNITED STATES DISTRICT JUDGE
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